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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,249	12/03/2001	Marshall R. Millikan	10050	7983

26884 7590 04/20/2006  
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EXAMINER

BEKERMANN, MICHAEL

ART UNIT PAPER NUMBER

3622

DATE MAILED: 04/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/005,249	MILLIKAN, MARSHALL R.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Michael Bekerman	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____  | 6) <input type="checkbox"/> Other: ____                                     |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. **Claims 1-3, 9-11, and 17-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Herz (U.S. Patent No. 6,571,279).** Herz teaches a location enhanced information delivery system that includes all of the limitations recited in the above claims.

**Regarding claims 1, 2, 9, 10, and 17,** Herz teaches the obtaining of data regarding a consumer (taken to be identifying the consumer) at a location (Column 4, Lines 49-67 and Column 5, Lines 1-3), adding said consumer data to collective consumer data of customers who are also at the location (Column 13, Lines 6-17), determining characteristics based on the updated collective consumer data (Column 13, Lines 6-17), and providing the selected message to the location (Column 13, Lines 6-17).

**Regarding claims 3, 11, 19,** Herz teaches a license plate scanning system (Column 29, Lines 11-16). This is taken to read on a physical attribute recognition system (recognizing the physical attributes of the license plate).

**Regarding claim 18,** Herz teaches an in-store kiosk (Column 12, Lines 57-61).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**2. Claims 4-8, 12-16, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (U.S. Patent No. 6,571,279).**

**Regarding claims 4, 5, 12, 13, and 20,** Herz doesn't specify the sending of messages through multiple message providers at the same location. It would have been obvious to one having ordinary skill in the art at the time the invention was made to put more than one display at a location. This would increase advertising profit. Herz teaches a consumer profile as having many different categories of data (Column 6, Lines 17-21). This means that there are multiple categories that collective consumer data can be based and more than one category of advertisement could be preferable to display. Based on this, it would have been obvious to one having ordinary skill in the art at the time the invention was made to display different advertisements on different

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displays should the location owner choose to place more than one display at the location. This would allow for more advertisers to have their advertisements shown.

**Regarding claims 6-8 and 14-16**, Herz teaches updating the displayed advertisement when a new user enters the display area (Column 7, Lines 43-52). Herz doesn't specify what happens when a user leaves the area. It would have been obvious to one having ordinary skill in the art at the time the invention was made to update the display when a user leaves the area as well. This would ensure that the advertisement showing is indeed the most appropriate advertisement. Herz also teaches the system as recognizing that consumers are leaving the location (Column 4, Lines 66-67 and Column 5, Lines 1-3) and the user profiles as having out-of-date (expired) time stamps (Column 20, Lines 10-13).

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following references are cited to further show the state of the art with respect to location based targeted advertising systems:

U.S. Pub No. 2003/0088832 to Agostinelli

U.S. Patent No. 6,484,148 to Boyd

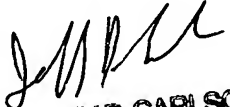
U.S. Patent No. 5,572,653 to DeTemple

U.S. Patent No. 6,931,254 to Egner

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bekerman whose telephone number is (571) 272-3256. The examiner can normally be reached on Monday - Friday, 7:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric W. Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
JEFFREY D. CARLSON  
PRIMARY EXAMINER

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